

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

Case # 15-CR-6177-FPG

DECISION AND ORDER

CARLOS MANUEL SANTIAGO,

Defendant.

Defendant Carlos Manuel Santiago moves to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2), United States Sentencing Commission Guidelines (“USSCG”) § 1B1.10(c), and Amendment 782. ECF No. 148. The government and probation both oppose the motion. ECF Nos. 150, 151. For the following reasons, Defendant’s motion is DENIED.

On May 20, 2016, Defendant pleaded guilty to conspiracy to possess with intent to distribute 1 kilogram or more of heroin. ECF No. 139. On September 30, 2016, the Court sentenced him to 135 months’ incarceration. ECF No. 145.

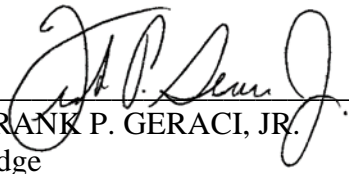
“Generally, a federal court ‘may not modify a term of imprisonment once it has been imposed.’” *United States v. Brooks*, 891 F.3d 432, 435 (2d Cir. 2018) (quoting 18 U.S.C. § 3582(c)). One exception is that a term of imprisonment may be modified if it was based on a sentencing range later lowered by the USSCG. Amendment 782, which became effective in 2014, created one such circumstance: it “modified the base offense levels in the Drug Quantity Table at section 2D1.1 of the Guidelines and thereby lowered the sentencing range for certain drug-related offenses [including heroin offenses].” *United States v. Valencia-Lopez*, No. 05-CR-841 (NGG), 2018 WL 7290831, at *2 (E.D.N.Y. June 19, 2018).

But as the government and probation correctly recognize, because Defendant was sentenced after the effective date of Amendment 782 using the 2015 USSCG, he has already received the benefit of the lower base offense level. ECF Nos. 150, 151; *see generally Lopez v. United States*, Nos. 15-CV-6514 (KMW)13-CR-788 (KMW), 2017 WL 1424324, at *1 (noting previous denial of motion to reduce sentence under Amendment 782 because “[p]etitioner had already benefitted from the Amendment”).

Accordingly, Defendant’s motion to reduce sentence, ECF No. 148, is DENIED.

IT IS SO ORDERED.

Dated: June 12, 2020
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court